

### REMARKS

Applicant also submits herewith a Request for Continued Examination and accompanying fee so that the foregoing amendment and following remarks and declarations may be considered.

In the Office Action mailed October 16, 2003, the outstanding claims of the present application, claims 1, 5, 6 and 9, have been rejected pursuant 35 U.S.C. §§ 112 and 103.

With respect to the indefiniteness rejection under § 112, Applicant has amended claim 1 as noted above. Accordingly, the specific language objected to by the Examiner has been revised. Applicant submits that the claim language is now definite. The § 112 rejection is respectfully traversed.

The claims of the present application are also rejected as being obvious in view of the primary reference Aylward in view of several secondary references. For any one or more of the following reasons, and further in view of the foregoing amendment, the Aylward reference does not disclose or teach a number of the claimed limitations. Respectfully, the obviousness rejection is traversed.

The following discussion is addressed specifically to claim 1. The claim limitations in claim 1 that are nowhere found in the prior art likewise apply with respect to the examination of claims 5, 6 and 9. The absence of claim elements and teaching of claim elements means that claim 1 and its dependencies are in condition for allowance.

First, claim 1 requires “a plurality of hoppers”. The Examiner refers to item 22 in the Aylward patent as disclosing a hopper, but item 22 refers to a plurality of openings in the bottom of a tray 21. In fact, the tray 21 of Aylward is a proper “hopper” as the term is commonly defined and as it is used by applicant in connection with this application. Importantly, Aylward only discloses the single hopper/tray 21. But even if it could be interpreted that the openings 22 are some type of hopper, then there is no “passageway between each of said hoppers and the associated nozzle” as also required by the claim. Applicant submits that a more reasonable correlation is that the openings 22 are the same as the claimed “passageways”, and that there is only the single hopper/tray 21 in Aylward.

Second, Aylward does not disclose “a plurality of nozzles, each of said nozzles associated with a corresponding one of said hoppers”. In Aylward, there is the single hopper/tray 21. Once again, as defined by Aylward itself, the tray 21 acts as a hopper and has openings 22 on the bottom of the tray. Accordingly, there are no plurality of hoppers having a plurality of nozzles associated with a corresponding one of each of the hoppers. There is only the single hopper with a plurality of openings.

Third, there is no single “hopper door for simultaneously opening the passageways between each of said hoppers and the associated nozzle”. There is only a single hopper/tray 21 in Aylward. As noted above, the openings 22 are more like the claimed “passageways”. So there is no plurality of hoppers as

explicitly required in the claim.

Fourth, there is no “plurality of bags” found in Aylward. As noted by the Examiner, the “multi-compartmented container” is a blister package. As presently claimed, the multi-compartmented container is a plurality of bags.

And fifth, Aylward nowhere discloses that “each of said bags conforms to and envelopes one of said nozzles”. Such a construction does not make sense with Aylward in that the blister package is an inherently rigid plastic construction.

For one or more of the foregoing reasons, Applicant submits that the Aylward reference is not a sufficient primary reference that may be used as a basis for the obviousness rejection made by the Examiner. There are at least several claim limitations that are nowhere found in Aylward or in any of the prior art references that may reasonably be combined therewith.

In addition to the foregoing deficiencies that Applicant submits reasonably characterize the Aylward reference, attached are declarations of experts in the field of medication compliance and monitoring. As noted in each of the declarations, the declarant has personally observed and manipulated a prototype of the present invention. Each declarant is specifically interested in the success of the present invention, because the success would directly affect the medication compliance of the patients and/or study subjects of the declarants. Each of these individuals is extremely experienced in the field. Each recognizes the serious consequences and the serious problems that exist in the real world with respect to non-

compliance in the taking of medications by patients. Each is excited about the opportunity with respect to the claimed invention becoming available to their patients so that they may better take their medications in a timely and effective matter.

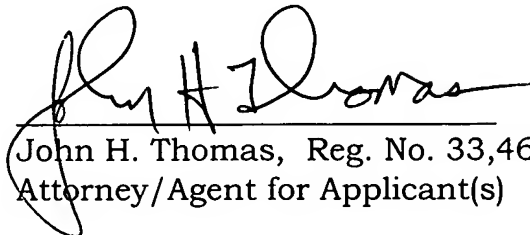
Turning now to specifics, some of the statistics with respect to medications compliance (and lack thereof) are very sobering. About a quarter of all hospital admissions of elderly patients result from medication noncompliance. For every dollar spent on medications, more money is spent on medication-related problems. In response to these daunting statistics, Drs. Delafuente and Smith believe that the claimed invention can be part of a solution. These experts are aware of existing compliance systems, yet they believe that Mr. Gibson's system will be effective.

For one or more of the foregoing reasons, Applicant submits that the claimed invention is not properly rejected over the Aylward reference. The combination of references urged by the Examiner should not be allowed to render the invention obvious. The explicit declarations of experts in the field support the objective non-obviousness of the present invention. Accordingly, Applicant submits that the Examiner's rejections are traversed for at least one or more of the foregoing reasons.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 50-2127.

Respectfully submitted,

DATE: January 15, 2004

  
John H. Thomas, Reg. No. 33,460  
Attorney/Agent for Applicant(s)

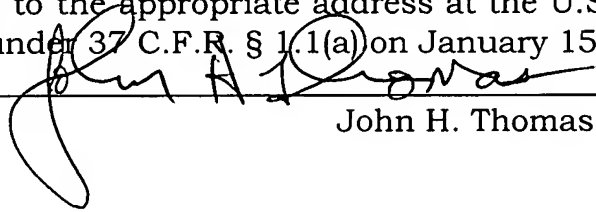
John H. Thomas, P.C.  
1561 East Main Street  
Richmond, Virginia 23219  
Telephone: (804) 344-8130  
Facsimile: (804) 644-3643

Attorney Docket No.: GIBSON 1

#### CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the appropriate address at the U.S. Patent and Trademark Office required under 37 C.F.R. § 1.1(a) on January 15, 2004.

by: \_\_\_\_\_

  
John H. Thomas